

No. 9/8/86-6Lab./1695.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Vinex, Plot No. 24, Dharuhera Industrial Complex, Rewari, District Mohindergarh.

IN THE COURT OF SHRI R.N. SINGAL, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 53 of 1984

between

SHRI RAJ KUMAR, WORKMAN AND THE RESPONDENT MANAGEMENT OF
M/S. VINEX, PLOT NO. 24, DHARUHERA INDUSTRIAL COMPLEX, REWARI,
DISTRICT MOHINDERGARH

Present—

Shri Raghubir Singh and Murli Kumar, for the workman.

Shri M.P. Gupta, for the management.

AWARD

This industrial dispute between the workman Shri Raj Kumar and the respondent-management of M/s Vinex Plot No. 24, Dharuhera Industrial Complex, Rewari, District Mohindergarh, has been referred to this Court by the Hon'ble Governor of Haryana, — vide his order No. JD/GGN-3/84/9285-90, dated 5th March, 1984, under Section 10(i)(c) of the Industrial Disputes Act, 1947, for adjudication. The terms of the reference are:—

Whether the termination of services of Shri Raj Kumar was justified and in order ? If not, to what relief is he entitled ?

According to the demand notice, the workman was appointed on 2nd December, 1981. His services were terminated on 21st October, 1983. He has prayed for reinstatement with continuity of service and with full back wages.

In the claim statement it is contended that the person who issued the charge-sheet was not competent to do so. Only the factory manager can issue the charge-sheet. The workman was not allowed to be represented by Shri Murli Kumar and Som Dutt office-bearers of Mohindergarh Textiles Workers Union.

In the written statement, it is admitted that the workman was dismissed from service with effect from 20th October, 1983. It is contended that the enquiry was fair and proper. In case it is held that enquiry is not fair, the management be given an opportunity to lead evidence to prove the charges against the workman. It is further contended that the workman was given opportunity to prove membership of the Trade Union but the workman failed to prove the same. Hence his request was rightly rejected.

Rejoinder has been filed denying these averments. The parties contested the reference on the following issue:—

(1) As per reference ?

I have heard the representative of both the parties and gone through the evidence on record. My findings on the issues are as under:—

Issue No. 1 :

The first contention of the workman is that he was not allowed to be represented by Shri Murli Kumar and Shri Som Dutt in the enquiry. Exhibit M-4 is the reply of the management that proof should be given that these persons were office-bearers of the aforesaid union. Exhibit W-4 is the reply of the workman that he was filing the copy of the receipt showing his own membership. Again the management wrote letter Exhibit M-5. Reply Exhibit M-6 was given that registration No. is 653 and that Shri Murli Kumar and Shri Som Dutt are the office-bearers and that full report can be obtained from the Secretary of the Union. It has also been admitted by MW-1 that a general demand notice filed by M/s Mohindergarh Textiles Workers Union is pending in the Industrial Tribunal. It clearly shown that the management knows that there was Mohindergarh Textiles Workers Union. They also knew about the office-bearers of the union. The workman has filed the

receipt to prove that he was member of the union. Hence his genuine request to be represented by Shri Murli Kumar and Som Dutt was turned down. Hence the enquiry was not fair and proper. According to Charge-sheet Exhibit M-15, the workman did not do the work on the asking of the supervisor. He abused him. He pushed the Supervisor and was ready to beat him. Shri Jagdish Chander, Rajinder, Subhash and Lal Chand rescued the supervisor. During the enquiry Shri Chet Ram who was supervisor has not been examined. This also clearly shows that the main witness with whom the workman is alleged to have misbehaved has not been examined. Hence the enquiry was not fair and proper.

Even it is presumed that the charges levelled against the workman have been proved it cannot be said that these charges were so grave that the workman should be punished with dismissal. In *M/s. Dalton Cable Works versus Ved Parkash* 1984—FJR Page 433, the workman used filthy language against the officer of the company in the factory premises. It is held that loss of confidence cannot be held. Punishment of dismissal is shockingly disproportionate. It was un-fair labour practice. It is held that the workman is entitled to be reinstated with back wages so in the present case if it is presumed that the workman has mis behaved, there is no evidence that earlier the workman has misbehaved like this. Hence the order of dismissal was unfair labour practice. He is, therefore, entitled to be reinstated with full back wages and continuity of service.

He is also entitled to Rs. 300 as costs of the proceedings.

The award is given accordingly.

Dated the 10th January, 1986.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 501, dated 14th February, 1986

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

R. N. SINGAL,
Presiding Officer,
Labour Court, Faridabad.

No. 9/8/86-6 Lab./1698.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Naveen Co-operative House Building Society, Ltd., Agwan Pur, Tilpat, Faridabad.

IN THE COURT OF SHRI R.N. SINGAL, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 46 of 1984

between

SHRI KHEMI, WORKMAN AND THE MANAGEMENT OF M/S NAVEEN CO-OPERATIVE
HOUSE BUILDING SOCIETY LTD., AGWAN PUR, TILPAT, FARIDABAD

Present—

Shri Duli Chand, for the workman.

Shri H.S. Kaushik, for the respondent management.

AWARD

This industrial dispute between the workman Shri Khemi and the respondent management of M/s Naveen Co-operative House Building Society Ltd., Agwan Pur, Tilpat, Faridabad, has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/1/16/84/9126-31, dated 2nd March, 1984, under section 10(i)(c) of the Industrial Disputes Act, 1947, for adjudication. The terms of the reference are :—

Whether the termination of services of Shri Khemi was justified and in order ? If not, to what relief is he entitled ?

According to the demand notice, and claim statement, the claimant was appointed 17 years back as a chowkidar. His last salary was Rs. 180.00 per month. He has filed a petition before the Presiding Officer, Additional Labour Court, Delhi and Rs. 5,250 were awarded in his favour. The management was not paying the dues and without any justification terminated his services. He has prayed for reinstatement with continuity of service and with full back wages.

The management has denied his contentions. It is contended that he prayed for increasing his wages or to accept the resignation forthwith. Finding the attitude of Shri Khemi non cooperative and unbecoming, the executive Committee carefully considered his letter and made his full and final payment against the receipt. The claimant gladly accepted and did not resent. He has been incited by somebody to approach this court. The claimant denied the averments in the rejoinder. The claim was contested on the following issues :—

- (1) Whether the workman is entitled to the claim mentioned in the petition ?
- (2) Relief ?

Both the issues are decided together.

Issue No. I & II :

I have heard the representatives of both the parties and gone through the evidence placed on record. My findings on the issues are as under :—

The management has examined Shri Charan Jit Singh who is scribe of exhibit M-1. He has stated that his resignation has not been signed by the workman. No reason was given why Exhibit M-2 was not signed by the claimant. It is not signed by MW-2 Shri Ganga Ram. He has not been able to tell why the claimant did not sign it. He has further stated that he did know whom this letter was delivered by the workman. MW-3 is Ram Murti Duggal, who is executive member who has also admitted that Exhibit M-1 is not signed by the workman. MW-4 is Shri Parkash Chand Mahajan, President of the respondent-management. He has stated that Exhibit M-1 was put before him and was not put up before the committee. MW-5 is Shri Chander Bhushan. He has submitted that in view of resignation letter Exhibit M-1, he has paid full and final payment,—vide Exhibit M-2. Other payments were also given,—vide Exhibit M-3, 4 and 5. As against this evidence the workman has appeared as WW-1. He has denied that he submitted his resignation. He has denied that he has finally settled his dispute,—vide Exhibit M-2. I have gone through Exhibit M-2. It has not been signed by the workman. It cannot be said that he signed Exhibit M-2,—vide this receipt the workman was paid wages for 25 days from 1st September, 1983 to 25th September, 1983. These were the wages of this period and hence it was not full and final payment of leaving the service of the respondent. It has been written in English that this amount is full and final settlement of his accounts as the workman does not want to continue to serve the society on the same daily wages. These words are written in English whereas the workman is an illiterate person. Hence it cannot be said that he accepted this wages as full and final. Moreover, he was also justified in declining to serve on such meagre wages of Rs. 6 per day. It was admitted by MW-2 that he remained on duty day and night. Hence he is justified in demanding his right wages. His services were illegally terminated on 26th September, 1983. He has admittedly worked for more than 240 days in a year at that time. Hence the provisions of Section 25-F of the Industrial Disputes Act, 1947 were attracted. He was not paid retrenchment compensation. Hence the order of termination, dated 26th September, 1983 is unjustified and illegal. He is, therefore, entitled to be reinstated with continuity of service and with full back wages. He has also been awarded Rs. 300 as costs of the proceedings. The award is given accordingly.

Dated, the 17th December, 1985.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.

Endorsement No. 502, dated 14th February, 1986.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under Section 15 of the I.D. Act.

R. N. SINGAL,

Presiding Officer,
Labour Court, Faridabad.